

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7385

BILL NUMBER: SB 418

DATE PREPARED: Apr 5, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: Retainage on Highway Projects.

FISCAL ANALYST: James Sperlik

PHONE NUMBER: 232-9866

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) Part 1) eliminates the requirement that a contractor must submit the written consent of the surety of the contractor's bond before the contractor may be permitted to draw any part of the retained percentage of a contract withheld by the Indiana Department of Transportation (INDOT). The bill repeals the requirement that, until there has been substantial completion of an Indiana Department of Transportation contract, payment on the contract may not exceed 97% of the estimated cost of the completed work. The bill also repeals additional provisions: (1) requiring that the retainage, upon the contractor's request, be deposited in an interest bearing escrow account with the Treasurer of State or the Treasurer of State's designee acting as escrow agent; and (2) permitting the Treasurer of State to charge a fee for these services.

Part 2) provides that public records relating to negotiations between the INDOT and landowners are excepted from disclosure if the records are created in anticipation of the negotiations or while the negotiations are in progress.

Part 3) provides that the INDOT may not give consent to openings in state route number 331 other than at the intersection of certain highways, and may not issue permission for a curb cut along state route number 331.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) The INDOT reports that Part 1 of the bill will have no fiscal impact on them.

Background: INDOT reports that under Indiana Code, the INDOT is required to withhold a 3% retainage on all contracts. Additionally, all contractors are required to post a performance bond with the INDOT on all contracts. Further, the INDOT reports that revised regulations require the contractors to pay their subcontractors within ten days after the work is completed. In addition, according to the INDOT, the

contractors report that the revised regulations will have a huge impact on their operations and have asked the INDOT to eliminate the retainage provision.

Parts 2) and 3): The INDOT reports that these provisions will have no fiscal impact on them.

Explanation of State Revenues: The State Treasurer's Annual Report for FY 2000 reveals that there was no escrow account established for the investment of the INDOT retainage amount. The report also reveals that there were no charges for the services of the State Treasurer for the investment of the INDOT retainage.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Transportation; State Treasurer.

Local Agencies Affected:

Information Sources: Firooz Zandi, Acting Deputy Chief Engineer of the INDOT, 232-5518; State Treasurer's Annual Report for FY 2000; Kathy Noland, Chief of Legislative and Public Affairs at the INDOT, 232-0694.